



Dennis J. Duffin
Director

70-87-11
The Commonwealth of Massachusetts

*Office of
Campaign & Political Finance*

One Ashburton Place, Boston 02108

727-8352

November 16, 1987
AO-87-11

Jan W. Baran, Esquire
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Dear Counselor Baran:

This letter is in response to your recent request for an advisory opinion concerning the application of M.G.L. c.55 §8 to activities of a "corporate sponsored" political action committee in connection with Massachusetts elections (other than ballot initiatives).

A brief summary of the campaign finance law with respect to political committees as well as involvement of business corporations in Massachusetts elections follows:

Political Action Committees

Section 1 of M.G.L. c.55 defines a political committee as "[a]ny committee, association, organization or other group of persons, including a national, regional, state, county, or municipal committee, which receives contributions or makes expenditures for the purpose of influencing the nomination or election of a candidate, or candidates." This office has taken the position that if an out-of-state political committee wishes to contribute to the campaign of a Massachusetts candidate, or to another multi-candidate political committee, it must register with this office and otherwise comply with the disclosure, reporting and limitation requirements of M.G.L. c.55. See OCPF Interpretative Bulletin No. 82-101, dated July 26, 1982, amended January 5, 1987. A political committee organized under federal law does not necessarily comply with all provisions of Massachusetts campaign finance law.

Business Corporations

Massachusetts campaign finance law prohibits business corporations from giving, paying, expending or contributing any money or other valuable thing directly or indirectly, for the purpose of aiding, promoting or preventing the nomination or election of any person to public office. M.G.L. c.55 §8. See generally, Opinion of the Attorney General, November 6, 1980. Any political committee which accepts corporate contributions or which benefits by corporate sponsorship or the indirect expenditure of corporate resources may not contribute directly or indirectly to state

or local candidates.

With reference to your specific questions, I repeat the question and follow it with an opinion as to such activities.

I.1. The political committee reimburses its sponsoring corporation on a monthly basis for all corporate expense, including salaries and administrative costs, incurred in connection with the political committee's Massachusetts election activities.

Under M.G.L. c.55 §8, corporate involvement with political committees organized on behalf of one or more candidates for elective office in Massachusetts is prohibited unless such committees pay fair value for any benefit received from such corporation. For example, if the corporation were to allow the use of its name, it is our position that a "thing of value" would have been contributed to the political committee unless the committee paid appropriate compensation for the use of such corporate name. The Attorney General has stated that a corporation may not offer goods or services without charge and must charge a rate such that no discount or rebate is offered to any candidate or committee which is not available to other candidates for the same office and to the general public. Opinion of the Attorney General, November 6, 1980.

In addition, the political committee must reimburse all corporate expense on such committee's behalf, whether or not the expense is incurred only in connection with the committee's election activities in Massachusetts.

I.2. The political committee maintains a Massachusetts bank account into which all of its receipts are deposited and from which all of its contributions to Massachusetts candidates are made.

The political committee need not maintain a Massachusetts bank account, but it must report all contributions it receives in conformity with M.G.L. c.55 §18. There is no mechanism under Massachusetts campaign finance law by which "out of state" contributions may be segregated from Massachusetts-related contributions. Each expenditure to a Massachusetts candidate or political committee (and expenses related to such expenditures) must also be reported in detail. However, all other expenditures not related to activity in Massachusetts may be reported in a lump sum form.

I.3. The political committee accepts only individual contributions and those contributions (in their original form, i.e., personal checks) are deposited directly into the Massachusetts bank account.

The political committee may accept contributions from individuals or from other political committees which have not received direct or indirect corporate funding. Such contributions, if greater than \$50.00, must be in the form of a check.

I.4. The PAC may not transfer funds from its out-of-state political committee accounts to its Massachusetts account.

All political committees which contribute to candidates, or their committees, for local and state office in Massachusetts must be registered with this office and must otherwise comply with the disclosure, reporting and limitation requirements of M.G.L. c.55. A political committee registered with this office may not accept contributions from another political committee which is not registered with this office.

I. Final Paragraph. We have been advised that, providing the above restrictions are met, a "corporate" PAC may lawfully make contributions to Massachusetts candidates. Further, such political committee may accept contributions from individuals who are not residents of Massachusetts; and the committee may transfer or donate any of the Massachusetts account funds to non-Massachusetts candidates or political committee.

Provided a political committee is organized pursuant to M.G.L. c.55 §5, and otherwise complies with the disclosure, reporting and limitation requirements of M.G.L. c.55 the committee may lawfully make contributions to Massachusetts candidates. A political committee may accept contributions from individuals who are not residents of Massachusetts provided the disclosure, reporting and limitation requirements of M.G.L. c.55 with respect to such contributions are met. A political committee is prohibited from accepting any direct or indirect corporate contribution, however. Lastly, the primary purpose of any multi-candidate political committee registered with this office must necessarily be to make contributions to candidates for public office at the state and local level in Massachusetts. While the law does not prohibit a political committee from making expenditures on an irregular basis to non-Massachusetts or federal candidates or political committees such expenditures should not reflect a substantial portion of the committee's activity.

II.1. The corporation may distribute materials recommending that employees make direct personal contributions to specific candidates. The corporation may pay for the expense of such communications to its employees from corporate funds. However, the contributions must come directly from employees' personal funds and the employee must direct the contribution to the candidate's committee. The corporation may not collect checks and then transmit them to a specific campaign on behalf of individual employees.

The Attorney General has stated that "[t]he prohibition against corporate expenditures does not apply to expenses incident to the publication of an internal newspaper which has editorialized in favor of a particular committee or candidate, urged that contributions be made to such a committee or candidate, or sold advertising space to a candidate or a multi-candidate committee," provided the publication of an internal newspaper is in the normal course of corporate affairs and does not involve corporate expenditures specifically designed to influence the electoral process. Opinion of the Attorney General, November 6, 1980. No materials other than a newsletter published in the normal course of the corporation's business may be prepared or distributed by the corporation.

Any individual contributions must be sent directly to the candidate's committee and if greater than \$50.00, must be in the form of a check. If the corporation were to process such contributions "a thing of value" could be construed to have been given to the committee, in contravention of the prohibition against corporate contributions to candidates.

II.2. Massachusetts corporate PACs may also solicit direct personal contributions from employees to candidates in this same manner. However, a Massachusetts PAC, unlike a corporation, may gather such direct individual contributions, and then forward them as a group to candidates. The PAC must also forward to the candidate a statement advising him that the contributions are from the personal funds of the employees. If the PAC deposits individual checks intended for specific candidates into the PAC bank account, and then writes the check off of the PAC account, it must submit to the candidate an itemized listing of the employees whose contributions are contained in such a check.

As discussed in my answer to question I.1. above, a multi-candidate political committee sponsored by a corporation may not solicit contributions on behalf of candidates for state or local office. A political committee which receives no corporate contributions or other direct or indirect corporate benefit may solicit contributions from individuals on behalf of any candidate for state or local office; provided, however contributions must be made to the political committee which in turn may make a contribution to an individual candidate. If the committee receives contributions earmarked for a specific candidate, the committee should report the name of the individual, his address and the amount of the contribution to the candidate, or his committee, and this office.

M.G.L. c.55 §5 provides that no candidate may give consent to have more than one committee organized on his behalf. A political committee may not therefore function as a clearing house for contributions to a particular candidate. A political committee in making a contribution to a candidate or a candidate's committee must specify the name of the committee, its treasurer and its address. The political committee must report from whom it receives contributions with this office in accordance with M.G.L. c.55 §18, but there is no requirement for the committee to report such information to the candidate or the candidate's committee, unless such funds have been earmarked specifically for such candidate by the contributor.

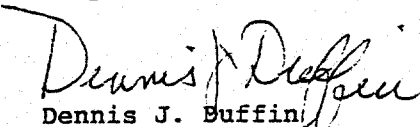
III. We would also like to know whether an out-of-state PAC may solicit direct personal contributions from Massachusetts employees to candidates (as in II., 2., above), and if so, how the requirements for such solicitations of direct contributions to candidates differ for out-of-state PACs in comparison to Massachusetts PACs.

M.G.L. c.55 governs only contributions and expenditures with respect to Massachusetts candidates for state and local office. This office has no jurisdiction over contributions or expenditures on behalf of candidates in other states' elections or in federal elections. I suggest that you contact the appropriate state or federal authorities with any questions you may have in this area.

As you requested, I have enclosed copies of M.G.L. c.55, regulations promulgated thereunder, the Opinion of the Attorney General, dated November 6, 1980, and Interpretative Bulletin 82-101 issued by this office.

Please do not hesitate to contact this office should you have further questions.

Very truly yours,


Dennis J. Buffin
Director

DJD/bva
Enclosures